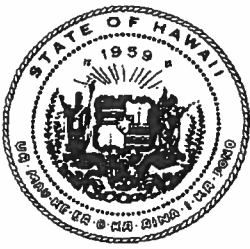


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COPY

INTRODUCTION The Department of Human Services (DHS) will prevent harassment in employment and in provision of its programs, services and activities. This policy has legal authority within the parameters of Title VII of the Civil Rights Act of 1964, as amended, The Pregnancy Discrimination Act, The Equal Pay Act of 1963 (EPA), the Age Discrimination in Employment Act of 1967 (ADEA), Title I and II of the Americans with Disabilities Act of 1990 (ADA), as amended, Sections 501 and 505 of the Rehabilitation Act of 1973, The Genetic Information Nondiscrimination Act of 2008 (GINA), HRS Chapter 378, Part 1, and HRS 368-1.5.

State and Federally-funded programs must be planned and administered such that they do not have the effect of denying or delaying services to any particular person or groups of persons seeking services at the DHS. Further, DHS must prevent harassment to ensure all persons are free from harassment in employment and in the provision of services. Illegal discrimination, harassment, and bullying are prohibited by the DHS' policy and by Federal and State Law and will not be tolerated at the DHS.

1.0 PURPOSE:

The primary purpose of this policy is the prevention of discrimination, harassment and bullying in employment and services at the DHS.

2.0 REFERENCES, ACRONYMS, AND DEFINITIONS: SEE APPENDIX A

3.0 POLICY:

It is the policy of the Department of Human Services (DHS) to assure equal opportunity for all department employees, applicants for employment, applicants for participation in the DHS programs, and participants in DHS programs without discrimination or harassment on the basis of race, color, religion, ancestry (national origin), sex, sexual orientation, age, marital status, assignment of income for child support obligations, disability, genetic information, arrest/court record, breastfeeding, credit history/credit report and National Guard participation.

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4.0 SCOPE:

The DHS is committed to employment/training decisions being based so as to further the principle of equal opportunity and affirmative action, and ensuring that selections for employment/training and promotion decisions are in accordance with the principles of equal opportunity and affirmative action for employees, applicants for employment, applicants for participation, and participants in DHS-sponsored programs.

All services provided to the public by the DHS or DHS-sponsored programs and activities shall be on an equal non-discriminatory basis. No person shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination or harassment under any phase or level of program or activity.

This policy applies to all the DHS divisions and their branches, sections and units, as well as agencies and commissions administratively attached to the DHS, individuals, and organizations that receive State and Federal funds through contracts or other arrangements with the DHS. It covers employees, clients, applicants, and potential applicants for employment and services, service providers, and contractors. This also includes individuals subjected to unlawful harassment because of their association with persons who are protected by non-discrimination law.

All employees and applicants for employment or services shall be entitled to an environment free of discrimination, including harassment and bullying. Harassment based on a person's membership in a protected group is strictly prohibited, and will not be tolerated.

5.0 RESPONSIBILITIES:

Administrative Appeals Office is responsible for developing, implementing and evaluating administrative hearing procedures and processes in provision of DHS services and for conducting hearings that are free from harassment and bullying.

Civil Rights Compliance Staff/Personnel Office (CRCS) is responsible for developing and coordinating DHS' Harassment and Discrimination Complaint Policies and Language Access, Self-Evaluation, and Affirmative Action Compliance Plans. Also CRCS serves as liaison between Federal and State agencies and other stakeholders, such as advocacy groups and/or potential applicants; provides technical assistance to divisions, administratively attached agencies, and commissions; responds to inquiries from the Equal Employment Opportunity Commission, Hawaii Civil Rights Commission, U. S. Department of Housing and Urban Development and others, as well as performing other duties relative to civil rights compliance in programs, services, activities, facilities and employment, such as reporting, training and development. The Civil Rights Staff shares responsibility with divisions, agencies and commissions for DHS policies and procedures, compliance reporting, training, and the development of tools, notices/documents, processes and training modules relating to

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civil rights compliance. This office may share with divisions the responsibility for developing private/public partnerships to facilitate access.

Director The DHS Director is responsible for leading and monitoring the implementation and prevention of barriers to language, facilities and employment access at the Department of Human Services. The Director may delegate any portion to a deputy director, staff officers and/or division administrators.

Employees All DHS employees are responsible for complying with Federal and State laws, relating to civil rights, including and not limited to treating all individuals equally and courteously, preventing harassment and/or informing persons of their right to equal access to programs, facilities and employment as well as their right to free interpreter service, reasonable accommodation as justified, and a right to file a discrimination complaint when they feel their civil rights have been violated and/or an internal complaint when they feel they have been treated unfairly. Employees are responsible for notifying clients of their right to file a discrimination complaint without fear of retaliation and/or to request an administrative hearing when there has been an adverse action such as a denial of benefits. Employees are expected to conduct themselves appropriately while at work and during work-related functions. Employees who experience or observe any job-related harassment or believe they have been treated in a disrespectful manner, have a duty and responsibility to report the incident/s in order to correct and prevent harassment. When employees have questions or concerns, they may contact DHS' Civil Rights Compliance Staff and/or the Hawaii Civil Rights Commission at the address stated on the complaint form.

DHS Organizational Division and Unit Administrators and Officers are responsible for preventing harassment and bullying, determining the needs of the population they serve, considering language, culture, and physical accessibility to facilities and employment that are consistent with those needs in compliance with Federal and State Laws. Other responsibilities include, but are not limited to: (1) distributing to appropriate staff members policies and procedures regarding harassment prevention, (2) consulting with the Civil Rights Compliance Staff on the development and implementation of staff training, (3) collecting and analyzing internal and external data, and (4) notifying and monitoring sub-recipients of compliance with Federal and State Laws and assurances relative to harassment prevention (5) performing other duties as identified in DHS policies and procedures including seeking external funding and partnerships as needed and appropriate in coordination with the Civil Rights Compliance Staff.

Sub-Recipients are responsible for complying with civil rights, and other Federal and State laws and assurances relative to harassment, including and not limited to, informing clients and potential clients of their right to file a discrimination complaint when they feel their civil rights have been violated or they have experienced bullying or harassment.

Contractors and Sub-Contractors are responsible for preventing harassment and bullying in providing their services and for posting required notices relative to harassment.

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Managers and Supervisors of the DHS shall ensure that these policies and procedures are carried out in accordance with applicable Federal and state laws, State administrative policies, civil service rules, and collective bargaining agreements. They are responsible for ensuring that their staff are aware of their responsibility to treat all clients and applicants equally and fairly, and to provide assistance to persons with special needs including but not limited to those alleging harassment or bullying. Managers and supervisors shall also ensure that clients, applicants, recipients, and employees are informed of their right to nondiscriminatory services and employment, reasonable accommodations as justified, and right to file a discrimination complaint and/or request for an administrative hearing when appropriate. Managers and supervisors are responsible for assuring that their staff are adequately trained, and for monitoring, posting, and updating of required notices relative to harassment. They are responsible for promptly, fully and objectively investigating harassment and bullying complaints, determining their merit and taking corrective action/s as warranted. Managers and supervisors shall ensure an environment that is free from discriminatory practices relating to harassment and bullying. Those who witness or receive reports of harassment, shall take immediate and appropriate action to ensure that the harassment ceases. They will ensure consistent application of DHS' Harassment policy and method of administration in the unit's provision of programs, services, contracts with service providers, and/or activities for the public.

6.0 DISCRIMINATION COMPLAINT PROCEDURES:

Discrimination complaint procedures are available in DHS Policy and Procedures 4.10.1 and are applicable to all Department of Human Services offices and programs, administratively attached agencies, commissions and private entities receiving Federal or State funds from the DHS. In order for the DHS to maintain consistency in the administration of discrimination complaints procedures and to comply with various requirements, recipients who operate Federally/State funded programs for the DHS in the State of Hawaii may use these procedures. Recipients who desire to develop internal complaint procedures must ensure they are reviewed by the DHS Civil Rights Compliance Staff prior to use. Complainants should follow the appropriate DHS Departmental Discrimination Complaint Procedure (4.10.1-2-3-4) when filing complaints of harassment which are discriminatory in nature.

7.0 IMPLEMENTATION:

In implementing this policy and procedure, the following shall apply.

Confidentiality Confidentiality will be maintained to the extent possible to successfully conduct a thorough investigation. Information regarding the complaint will be shared with appropriate individuals on a "need to know" basis. Complainants will be asked to sign a

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consent/release form indicating their consent or denial of consent to release information.
(Appendix B)

Retaliation The Department of Human Services prohibits retaliation against any individual who files a complaint of harassment, participates in complaint proceedings or who otherwise opposes acts of harassment. Employees and applicants have a right to complain about discrimination, harassment, or bullying without fear of retaliation.

Violations of Policy Employees who violate this policy shall be subject to disciplinary action in accordance with the respective collective bargaining agreement and related DHS policies. Contractors will be at risk of non-renewal of contract. Clients will be at risk for seeking services elsewhere. Applicants for employment, programs and services could be asked to withdraw from applying for programs or services as warranted.

Discriminatory practices will not be tolerated at the DHS in any form, and appropriate measures will be taken to prevent harassment and bullying and to address discriminatory acts.

Disciplinary and other action shall be designed to correspond with the seriousness of the action, and be reasonably calculated to stop the harassment or bullying and to ensure that the harassment will not recur.

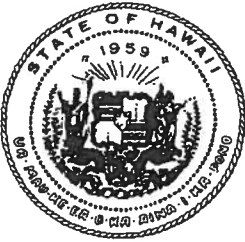
With approval of this Harassment Prevention Policy by the Director, this DHS' policy shall be effective and implemented and will remain in effect until such time it is cancelled or superseded by order of the DHS Director. This policy is in addition to DHS Directive 2011-02 and must be displayed prominently on bulletin boards.

This part shall supersede any prior directive concerning harassment. Authorized modifications of content will not affect the life of these policies and procedures, unless so specified by the Director.

APPROVED: _____



Patricia Mc Manaman, Director

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2.0 REFERENCES, ACRONYMS AND DEFINITIONS

2.1 REFERENCES

Civil Rights Act, Title VI and VII, as amended
 Age Discrimination in Employment Act (ADEA)
 Americans with Disabilities Act (ADA), Title I & II, as amended
 The Pregnancy Discrimination Act
 The Equal Pay Act (EPA)
 Rehabilitation Act, Sections 501 and 505
 The Genetic Information Nondiscrimination Act of 2008 (GINA)
 HRS Chapter 378 Part 1, and HRS 368-1.5
 Food Stamp Act (SNAP)
 Vietnam Era Veterans' Readjustment Assistance Act , Section 402
 Fair Housing Act, as amended, and others

2.2 ACRONYMS

| | |
|------|---|
| ADA | Americans with Disabilities Act, as amended |
| ADEA | Age discrimination in Employment Act |
| CRCS | Civil Rights Compliance Staff |
| DHS | State of Hawaii, Department of Human Services, including its administratively attached agencies and commissions |
| DIR | Director of the State of Hawaii, Department of Human Services |
| EPA | Equal Pay Act |
| GINA | Genetic Information Nondiscrimination Act |
| HCRC | Hawai'i Civil Rights Commission |
| HRS | Hawai'i Revised Statutes |
| SNAP | Supplemental Nutrition Assistance Program |

2.3 DEFINITIONS AND EXAMPLES

Harassment Harassment or bullying based on a person's membership in a protected group--race, color, religion, ancestry (national origin), sex, sexual orientation, age, marital status, assignment of income for child support obligations, disability, genetic information, arrest/court record, breastfeeding, credit history/credit report, and/or National Guard participation (and political beliefs for the SNAP Program).

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Harassment is unlawful when unwelcome behavior becomes so severe and pervasive that it alters a person's terms and conditions of employment, unreasonably interferes with work, or creates an intimidating, hostile or offensive environment. (Behavior that does not meet this definition may be addressable by changes in management practices or by corrective action under other personnel policies.)

Sexual Harassment Unwelcome sexual advances or requests for sexual favors or other verbal or physical conduct of a sexual nature is unacceptable when:

- submission to such conduct is made either explicitly or implicitly a term or condition of employment or receipt of services;
- submission to or rejection of such conduct by an individual is used as the basis for employment or receipt of services decisions affecting said individual; or
- such conduct has the purpose or effect of creating an intimidating, hostile or offensive environment.

Examples of verbal sexual harassment might include, but are not limited to, offensive and derogatory comments, jokes of an offensive nature, innuendoes, unwelcome repeated requests for dates or obscene or graphic descriptions of an individual's body, and threats made to a person who refuses a sexual advance.

Examples of non-verbal sexual harassment may include, but are not limited to, sexually suggestive or offensive objects or pictures, screen savers, written comments, suggestive or offensive sounds, whistling, catcalls or obscene gestures.

Sexual harassment with respect to terms and conditions of employment might include treating a person differently when that individual refuses a sexual advance. Examples of such disparate treatment include, but are not limited to, limiting benefits which other employees presently receive and enjoy, refusing to grant a promotion, giving someone a negative evaluation which does not reflect that person's actual performance, and demoting or terminating a person.

Sexual harassment with respect to provision of services might include treating an applicant, potential applicant, service provider, contractor or client differently when that individual refuses a sexual advance.

Discrimination Any action/s or lack of action/s by the DHS, which results in disparate treatment or has an adverse impact on a person or group of persons, on the basis of one or more memberships in protected groups (groups protected by Federal and State laws).

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Service Provider Any person, or group of persons, agency, organization, institution, political subdivision, that delivers a program, service or activity with Federal or State financial assistance through contractual, licensing or other arrangements with the Department of Human Services.

Sub-Recipient Any entity that expends Federal or State assistance received as a pass-through from the DHS to carry out a program in which the sub-recipient provides services to and has contact with applicants and participants in the same manner as DHS if DHS were to administer the program directly, but does not include an individual applicant or participant who is a beneficiary of a program. For example, Medicaid payments to a contractor or provider for providing patient care services to Medicaid eligible individuals are not considered Federal awards expended unless the State requires the funds to be treated as Federal awards expended because reimbursement is on a cost-reimbursement basis (OMSB Circular A-133—Guidance on distinguishing between a sub-recipient and a vendor is provided in .210).

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STATE OF HAWAII

Department of Human Services

CONSENT / RELEASE FORM

Your Name: _____
 Address: _____

Please read the information below, initial the appropriate space, and sign and date this form on the lines at the bottom of the form.

I understand that in the course of a preliminary inquiry or investigation it might become necessary for the Department of Human Services (DHS), Civil Rights Compliance Staff (CRCS) to reveal my identity to persons at the organization under investigation. I am also aware of the obligations of CRCS to honor requests under the Freedom of Information and Privacy Acts. I understand that it might be necessary for DHS to disclose information, including personally identifying details, which it has gathered as a part of its preliminary inquiry or investigation of my complaint. In addition, I understand that as a complainant I am protected by Federal regulations and DHS policies from retaliation for having taken action or participated in action to secure rights protected by nondiscrimination statutes.

 Initial on the
 line above if
 you give
 consent.

CONSENT GRANTED – I have read and understand the above information and authorize DHS, CRCS, to reveal my identity to persons at the organization under investigation and to Federal or State agencies that provide financial assistance to the organization or also have civil rights compliance oversight responsibilities that cover that organization. I hereby authorize DHS to receive material and information about me pertinent to the investigation of my complaint. This release includes and is not limited to, applications, case files, personal records and medical records. This authorization is effective for one year from the date the authorization is signed. I understand that the material and information will be used for authorized civil rights compliance and enforcement activities. I further understand that I am not required to authorize this release, and I do so voluntarily.

 Initial on the line
 above if you deny
 consent.

CONSENT DENIED – I have read and understand the above information and do not want CRCS to reveal my identity to the organization under investigation, or to review, receive copies of, or discuss material and consent information about me, pertinent to the investigation of my complaint. I understand that this is likely to make the investigation of my complaint and getting all the facts more difficult and, in some cases, impossible, may result in the investigation being close.

 Signature

 Date

Please return completed, signed and dated form to:

State of Hawaii
 Department of Human Services
 PERS/CRCS
 PO Box 339
 Honolulu, Hawaii 96809-0339

Questions may be sent to: gwatts@dhs.hawaii.gov